

**United States Bankruptcy Court
Central District of California
Riverside
Judge Mark Houle, Presiding
Courtroom 301 Calendar**

Tuesday, November 2, 2021

Hearing Room 301

11:00 AM

6:19-11430 Michael L. Williams

Chapter 7

#1.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 33320 Kilroy Road, Temecula, CA 92592 Under 11 U.S.C. § 362
(Motion filed 3/16/21)

From: 4/20/21, 6/8/21, 8/10/21

(Case converted to chapter 7 on 3/30/21)

MOVANT: NEWREZ LLC d/ba SHELLPOINT MORTGAGE SERVICING

EH__

[Tele. appr. Dane Exnowski, rep. creditor, NEWREZ LLC]

Docket 45

Tentative Ruling:

4/20/2021

**Service: Proper When Filed
Opposition: Debtor**

This bankruptcy case was converted to Chapter 7 after the filing of the instant motion. For this reason, the Court is inclined to CONTINUE the matter for service on the Chapter 7 Trustee.

APPEARANCES REQUIRED.

Party Information

**United States Bankruptcy Court
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11:00 AM

CONT... Michael L. Williams

Chapter 7

Debtor(s):

Michael L. Williams

Represented By
Gregory Ashcraft

Movant(s):

NewRez LLC d/b/a Shellpoint

Represented By
Alexander G Meissner
Julian T Cotton
Mary D Vitartas
Dane W Exnowski

Trustee(s):

Lynda T. Bui (TR)

Pro Se

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6:19-13939 Armando Richard Moreno

Chapter 13

#2.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 409 Cindy Circle, Riverside, CA 92507 (Motion filed 9/28/21)

MOVANT: SELECT PORTFOLIO SERVICING, INC.

EH____

[Tele. appr. Todd Turoci, rep. Debtor]

[Tele. appr. Joseph Delmotte, rep. creditor, Select Portfolio Servicing Inc.]

Docket 46

Tentative Ruling:

11/2/2021

Service: Proper
Opposition: None

Having reviewed the motion, service being proper, no opposition having been filed and good cause appearing, the Court is inclined to:

- GRANT relief from stay pursuant to § 362(d)(1)
- GRANT relief from § 1301(a) co-debtor stay
- GRANT waiver of Rule 4001(a)(3) stay
- GRANT requests under ¶¶ 2 and 3
- DENY alternative request under ¶ 13 as moot

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Armando Richard Moreno

Represented By

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CONT... Armando Richard Moreno

Todd L Turoci

Chapter 13

Movant(s):

Select Portfolio Servicing Inc., as

Represented By
Joseph C Delmotte

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
Central District of California
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11:00 AM

6:19-14828 Portia Wondaline Barmes

Chapter 13

#3.00 CONT. Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 6635 Cathy Place, Riverside, CA 92504
(Motion filed 1/26/21)

MOVANT: AJAX MORTGAGE LOAN TRUST 2019-E, MORTGAGE BACK SECURITIES, SERIES 2910-E BY U.S. BANK NATIONAL ASSOCIATION, AS INDENTURE TRUSTEE

From: 2/16/21, 4/27/21, 5/25/21, 7/6/21, 8/31/21

EH__

[Tele. appr. Donna Travis, rep. Debtor]

[Tele. appr. Reilly Wilkinson, rep. creditor AJAX Mortgage]

Docket 78

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Portia Wondaline Barmes

Represented By
Dana Travis

Movant(s):

Ajax Mortgage Loan Trust 2019-E,

Represented By
Reilly D Wilkinson
Joshua L Scheer

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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Hearing Room 301

11:00 AM

6:20-13121 Robert Ford Goering, Jr.

Chapter 13

#4.00 Notice of motion and motion for relief from the automatic stay with supporting declarations REAL PROPERTY RE: 27832 Huron Ct, Menifee, CA 92585 Under 11 U.S.C. § 362 (Motion filed 10/12/21)

MOVANT: Cenlar FSB as servicer for HomeBridge Financial Services, Inc.

EH__

[Tele. appr. Nancy Lee, rep. creditor, Cenlar FSB as servicer for HomeBridge Financial Services, Inc.]

Docket 36

Tentative Ruling:

11/2/2021

Service: Proper

Opposition: Debtor

Parties to apprise the Court of the status of adequate protection discussions, if any.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Robert Ford Goering Jr.

Represented By
Heather J Canning

Movant(s):

HomeBridge Financial Services, Inc.

Represented By
Nancy L Lee

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CONT... Robert Ford Goering, Jr.

Chapter 13

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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6:21-14215 Carrie Terrones

Chapter 7

#5.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2019 Nissan Altima (Motion filed 10/7/21)

MOVANT: NISSAN MOTOR ACCEPTANCE CORPORATION

EH__

[Tele. appr. Kirsten Martinez, rep. creditor, Nissan Motor Accept. Corp.]

Docket 11

Tentative Ruling:

11/2/2021

Service: Proper
Opposition: None

Having reviewed the motion, service being proper, no opposition having been filed and good cause appearing, the Court is inclined to:

- GRANT relief from stay pursuant to § 362(d)(1) and (2)
- GRANT waiver of Rule 4001(a)(3) stay
- GRANT requests under ¶¶ 2 and 3

APPEARANCES WAIVED. Movant to lodge order within seven days. If oral or written opposition is presented at the hearing, the hearing may be continued.

Party Information

Debtor(s):

Carrie Terrones

Represented By
M. Wayne Tucker

Movant(s):

Nissan Motor Acceptance

Represented By

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CONT... **Carrie Terrones**

Austin P Nagel

Chapter 7

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:21-14562 Jaime Alberto Camacho Candelo

Chapter 7

#6.00 Notice of motion and motion for relief from the automatic stay with supporting declarations PERSONAL PROPERTY RE: 2015 Honda Accord, VIN: 1HGC R2F3 1FA1 54592 .
(Motion filed 10/7/21)

MOVANT: AMERICAN HONDA FINANCE CORPORATION

EH__

[Tele. appr. Vincent Frounjan, rep. creditor, American Honda Finance Corporation]

Docket 21

Tentative Ruling:

11/2/2021

Service: Proper

Opposition: None

11 U.S.C. § 362 provides in relevant part:

(h)(1) In a case in which the debtor is an individual, *the stay provided by subsection (a) is terminated with respect to personal property* of the estate or of the debtor securing in whole or in part a claim, or subject to an unexpired lease, and such personal property shall no longer be property of the estate if the debtor fails within the applicable time set by section 521(a)(2)--

(A) *to file timely any statement of intention* required under section 521(a)(2) with respect to such personal property or to indicate in such statement that the debtor will either surrender such personal property or retain it and, if retaining such personal property, either redeem such personal property pursuant to section 722, enter into an agreement of the kind specified in section 524(c) applicable to the debt secured by such personal property, or assume such unexpired lease pursuant to section 365(p) if the trustee does not do so, as

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CONT... **Jaime Alberto Camacho Candelo**
applicable; and

Chapter 7

11 U.S.C. § 362(h)(1)(A) (emphasis added).

Here, Debtor did not list the collateral on the statement of intention. Because Debtor was required to select to either abandon or redeem the property, or to enter a reaffirmation agreement, and the thirty-day deadline for filing or amending the statement of intention passed on September 25, 2021 pursuant to 11 U.S.C. § 521(a)(2)(A), the automatic stay has terminated as a matter of law. Therefore, the Court is inclined to DENY the motion as MOOT.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Jaime Alberto Camacho Candelo

Represented By
Roberto Gil

Movant(s):

AMERICAN HONDA FINANCE

Represented By
Vincent V Frounjan

Trustee(s):

Todd A. Frealy (TR)

Pro Se

**United States Bankruptcy Court
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11:00 AM

6:21-15286 Christian Howard

Chapter 13

#7.00 Notice of Motion and Motion in Individual Case for Order Imposing a Stay or Continuing the Automatic Stay as the Court Deems Appropriate 367 W. County Line Rd., Calimesa, CA 92320
(Motion filed 10/8/21)

MOVANT: CHRISTIAN HOWARD

EH__

[Tele. appr. Reilly Wilkinson, rep. AJAX Mortgage Loan Trust 2019-E]

[Tele. appr. Christopher Hewitt, rep. Debtor]

Docket 9

Tentative Ruling:

11/2/2021

Service: Improper

Opposition: Budget Finance Company

The Court notes that Judge Houle's self-calendaring instructions require that secured creditors be served with motions to continue the automatic stay pursuant to FED. R. BANKR. P. Rule 7004. Here, it appears that the law firm which filed a motion for relief from stay in Debtor's previous case was served with the motion, but secured creditor was not served at all. The Court will waive this as secured creditor filed an opposition.

Debtor had a previous case dismissed on February 4, 2021, less than one year prior to the instant petition date, and Budget Capital Corporation filed a motion for relief from the automatic stay that was resolved through an adequate protection agreement during the previous case. Therefore, a presumption of bad faith arises as to the secured creditor pursuant to 11 U.S.C. § 362(c)(3)(C)(ii).

The instant motion asserts that the bad faith presumption as to secured creditor is

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CONT... Christian Howard

Chapter 13

overcome because: "The Debtor encountered receipt of rents due to the COVID pandemic. Rents have increased, and the Debtor is able to make his chapter 13 plan payments which in turn will allow pre-petition arrears to be paid during the course of the Chapter 13 plan."

This statement is incomprehensible, is not clear or convincing, and does not rebut the presumption that the case was not filed in good faith.

For the reasons set forth above, the Court is inclined to DENY the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

Christian Howard

Represented By
Christopher Hewitt

Movant(s):

Christian Howard

Represented By
Christopher Hewitt

Trustee(s):

Rod Danielson (TR)

Pro Se

**United States Bankruptcy Court
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12:00 PM

6:17-11311 AHMAD JAMALEDDIN ALJINDI

Chapter 7

#7.10 Application for Waiver of Appellate Filing Fee

EH__

Docket 33

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

AHMAD JAMALEDDIN ALJINDI Pro Se

Trustee(s):

Lynda T. Bui (TR) Pro Se

**United States Bankruptcy Court
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2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#8.00 Application for Allowance and Payment of Fees and Reimbursement of Expenses of the Former Chapter 11 Trustee; Declaration of David M. Goodrich in Support with proof of service for David M Goodrich (TR), Trustee Chapter 9/11, Period: 12/5/2016 to 9/17/2021, Fee: \$79,907.59, Expenses: \$23,903.97 (Motion filed 10/1/21)

Also #9, 10

EH__

Docket 576

***** VACATED *** REASON: CONTINUED TO 11/16/21 BY ORDER
ENTERED 10/22/21**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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6:16-14273 Allied Injury Management, Inc.

Chapter 11

#9.00 Application for Compensation Final Application of SulmeyerKupetz, a Professional Corporation, as Counsel to Chapter 11 Trustee, for Allowance and Payment of Fees and Expenses; Declarations of Mark S. Horoupian and David M. Goodrich in Support Thereof for SulmeyerKupetz, A Professional Corporation General Counsel, Period: 12/20/2016 to 9/9/2021, Fee: \$696,835.00, Expenses: \$15,129.59 (Motion filed 10/8/21)

Also #8, 10

Docket 578

***** VACATED *** REASON: CONTINUED TO 11/16/21 BY ORDER
ENTERED 10/22/21**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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2:00 PM

6:16-14273 Allied Injury Management, Inc.

Chapter 11

#10.00 Application for Compensation first and final application for compensation and reimbursement of expenses of Grobstein Teeple, LLP as accountants for Chapter 11 Trustee; Grobstein Teeple LLP, Accountant, Period: 12/12/2016 to 9/9/2021, Fee: \$102,852.00, Expenses: \$119.18.
(Motion filed 10/18/21)

Also #8, 9

EH__

Docket 582

***** VACATED *** REASON: CONTINUED TO 11/16/21 BY ORDER
ENTERED 10/22/21**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Allied Injury Management, Inc.

Represented By
Alan W Forsley

Trustee(s):

David M Goodrich (TR)

Represented By
Mark S Horoupian
Jason Balitzer
Victor A Sahn
Steven Werth

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Central District of California
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2:00 PM

6:17-15816 Integrated Wealth Management Inc and Anthony Pisano Chapter 11

#11.00 CONT Post Confirmation Status Conference

From: 10/23/18, 4/10/19, 10/9/19, 4/22/20, 8/25/20, 12/15/20, 4/27/21, 8/31/21

EH__

[Tele. appr. Robert Opera, rep. Debtor]

Docket 277

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

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2:00 PM

6:17-15816 Integrated Wealth Management Inc

Chapter 11

Adv#: 6:19-01177 Issa v. Pisano

#12.00 CONT Status Conference RE: [1] Adversary case 6:19-ap-01177. Complaint by J. Michael Issa against Anthony Pisano. (13 (Recovery of money/property - 548 fraudulent transfer)) (Ignatuk, Joseph)

Also #11

From: 2/25/20, 4/28/20, 6/9/20, 7/21/20, 8/25/20, 9/29/20, 1/24/20, 12/1/20, 1/20/21, 3/31/21, 6/8/21, 8/31/21

EH__

Docket 1

***** VACATED *** REASON: CASE DISMISSED 10/29/21**

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Integrated Wealth Management Inc

Represented By
Andrew B Levin
Robert E Opera
Jim D Bauch

Defendant(s):

Anthony Pisano

Represented By
Scott P Schomer
Joseph R Ignatuk

Plaintiff(s):

J. Michael Issa

Represented By
Joseph R Ignatuk

**United States Bankruptcy Court
Central District of California
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Hearing Room 301

2:00 PM

6:21-10758 DW Trim, Inc.

Chapter 11

#13.00 Motion for Order to assume non-residential lease
(Motion filed 9/30/21)

EH____

**[Tele. appr. Robert Kinas, rep. William Lyon Homes, Inc., a
California corporation, and RSI Communities LLC, a Delaware
limited liability company]**

[Tele. appr. Steven Rox, rep. Debtor]

Docket 241

Tentative Ruling:

11/2/2021

BACKGROUND

On February 15, 2021, DW Trim, Inc. ("Debtor") filed a Chapter 11 voluntary petition. On the schedules, Debtor indicated that it was the lessee of certain real property located at 2209-2213 Business Way, Riverside, CA 92501 (the "Property"). Debtor leases the Property from Business Way Investments, a General Partnership (the "Landlord") and utilizes the Property for "its administrative needs, to store materials to be used in construction and also [for] work space for employees who prepare materials to be used in the field." [Dkt. No. 241, pg. 2, lines 3-5].

Currently the lease expires on April 30, 2023. Debtor is \$6,130 prepetition delinquent on the least but is postpetition current. Monthly payments are \$4,661 through April 2022 and \$4,756 for the final year of the lease.

On July 7, 2021, the Court entered an order extending the time for Debtor to move to assume or reject the lease until September 30, 2021. On September 30, 2021, Debtor filed the instant motion to assume the lease. The Court approved Debtor's disclosure statement on October 7, 2021.

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CONT... DW Trim, Inc.

Chapter 11

DISCUSSION

According to the motion, 11 U.S.C. § 365(d)(4) provides:

- (A) Subject to subparagraph (B), an unexpired lease of nonresidential real property under which the debtor is the lessee shall be deemed rejected, and the trustee shall immediately surrender that nonresidential real property to the lessor, if the trustee does not assume or reject the unexpired lease by the earlier of –
 - (i) *The date that is 120 days after the date of the order for relief; or*
 - (ii) The date of the entry of an order confirming a plan.
- (B)(i) The court may extend the period determined under subparagraph (A), prior to the expiration of the 120-day period, for 90 days on the motion of the trustee or lessor for cause.
 - (ii) If the court grants an extension under clause (i), the court may grant a subsequent extension only upon prior written consent of the lessor in each instance.

The Court notes that the above is actually an outdated quote of § 365(d)(4)(A)(i). The Consolidated Appropriations Act, 2021, extended the timeframe from 120 days to 210 days.

The Court further notes that, if Debtor's quote of the legal provision was correct, then Debtor's motion to extend that deadline would have been untimely. *See, e.g.*, 3 COLLIER'S ON BANKRUPTCY ¶ 365.05[3][b] (16th ed. 2021) ("It is now clear that any order extending the initial 210-day period must be entered before the expiration of the deadline.") (*citing* 11 U.S.C. § 365(d)(4)(B)).

Turning to the merits of the motion, the Court notes that its review of Debtor's decision to assume the lease is highly deferential:

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CONT...

DW Trim, Inc.

Chapter 11

The propriety of a decision to assume or reject an unexpired lease (*i.e.*, whether the motion to assume/reject should be approved by the court) normally is determined under the deferential "business judgment" test. The court must presume that the debtor, in deciding to reject, acted "prudentially, on an informed basis, in good faith, and in the honest belief that the action taken was in the best interests of the bankruptcy estate." The court should approve the debtor's decision unless it is "so manifestly unreasonable that it could not be based on sound business judgment, but only on bad faith, or whim or caprice."

In re Hertz, 536 B.R. 434, 442 (Bankr. C.D. Cal. 2015) (*quoting In re Pomona Valley Med. Grp. Inc.*, 476 F.3d 665, 670 (9th Cir. 2007)).

Here, notice being proper and no opposition having been filed, the Court deems the absence of opposition to be consent to the relief requested pursuant to Local Rule 9013-1(h). There being consent to the relief requested, the Court has no basis in the record that Debtor's decision to assume the lease is "manifestly unreasonable." Furthermore, it appears that Debtor has provided adequate assurance that it can promptly cure the default in the lease.

TENTATIVE RULING

The Court is inclined to GRANT the motion.

APPEARANCES REQUIRED.

Party Information

Debtor(s):

DW Trim, Inc.

Represented By
Steven R Fox

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6:21-14536 Bear Valley Ranch Market & Liquor Inc

Chapter 11

#14.00 CONT. Motion to Use Cash Collateral
(Motion filed 8/27/21)

From 8/31/21, 9/28/21

EH__

[Tele. appr. Kevin Kobbe, rep. secured creditor, Ventures LLC]

[Tele. appr. Luke Hendrix, rep. Debtor]

Docket 4

Tentative Ruling:

- NONE LISTED -

Party Information

Debtor(s):

Bear Valley Ranch Market & Liquor

Represented By
J. Luke Hendrix

Movant(s):

Bear Valley Ranch Market & Liquor

Represented By
J. Luke Hendrix